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C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 001575

SIPDIS

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SUBJECT: BOSNIA - COUNCIL OF EUROPE REPORT PLAYS INTO
SILAJDZIC'S HANDS

REF: SARAJEVO 1518

Classified By: Michael J. Murphy. Reasons 1.4 (b) and (d).

¶1. (C) SUMMARY: The Parliamentary Assembly of the Council of Europe (PACE) on September 30 adopted a resolution on Bosnia that -- inter alia -- calls for a new constitution by October 2010 that: 1) reforms entity voting; 2) narrows the "vital national interest" protections; 3) allows "others" to compete in elections for the Presidency; and 4) creates a state-level Supreme Court. Bosniak member of the Tri-Presidency Haris Silajdzic is highly likely to portray these recommendations as an endorsement of his proposals for constitutional reform.

The declaration also singles out the Republika Srpska (RS) as an obstacle to Bosnia's reform progress, condemning recent RS initiatives that undermine and weaken state-level institutions. In his September 30 speech to the PACE, Silajdzic pounced on the opportunity to reiterate themes he had stressed at UNGA on September 23 (i.e., the RS is a product of genocide; the international community is responsible for rectifying that genocide). Predictably, Serbs reacted angrily to Silajdzic's PACE address and underscored plans for an October 13 special session of the RS National Assembly (RSNA) at which they will craft a response to Silajdzic's rhetoric and the PACE resolution. END SUMMARY

CoE Endorses New Bosnian Constitution

¶2. (SBU) The Parliamentary Assembly of the Council of Europe (PACE) on September 30 adopted -- with few objections -- a resolution on Bosnia following weeks of negotiations, proposed amendments, and sharp rhetoric. The resolution calls for dialogue on a new constitution -- in close cooperation with the European Commission for Democracy through Law (Venice Commission) -- to begin immediately after the October 5 municipal elections, with a view to drafting and adopting the constitution by October 2010, the timeframe of the next Bosnian general elections. The report notes that constitutional reform is necessary for police reform legislation to take effect and to solidify the distribution of competencies between the entities and the state. The resolution also calls for creation of a state-level Supreme Court.

Embracing Silajdzic's "Civic State"

¶3. (SBU) The PACE resolution stresses that members of Parliament must act as free and democratically elected representatives of all Bosnian citizens and not as defenders of purely ethnic interests. Bosnia should become a "genuine

civic state of all citizens living in it," the resolution argues. With this objective in mind, the resolution calls for:

- Revamping of the entity voting procedures in the state-level House of Representatives;
- Narrowing the "vital national interests" clause;
- Ensuring "others" have an opportunity to participate in political life by competing for the Presidency and participating in the designation of the delegates to the House of Peoples.

RS Guilty of Undermining Bosnia

14. (SBU) The resolution is critical of the RS, accusing it of undermining and weakening state institutions and citing as an example the adoption of the RS Law on Conflict of Interest, which entrusts implementation of the law to the RS Election Commission, rather than the state-level Commission. The RSNA's adoption of a draft law to create an RS-specific Ombudsperson for children's rights also impinges on the competencies of the state Ombudsperson's office, according to the report. Finally, the resolution -- stressing that Kosovo cannot be viewed as a precedent -- condemns the Republika Srpska National Assembly (RSNA) resolution on February 21 which referred to the possibility of holding a referendum on self-determination. The PACE resolution asserted that the RSNA resolution "contradicts the Dayton Peace Agreement, which does not give entities the right to secede."

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RS Proposals Rejected

15. (SBU) The Council of Europe monitoring team -- composed of one Finnish and one Turkish Council of Europe representative, as well as a delegation from all three ethnic groups in Bosnia -- drafted the report and discussed several iterations of it with Bosnian leaders. All changes that the RS proposed to the initial draft -- removing the clause on entity voting, "unnecessary criticism" of the RS for adopting an entity-level (rather than contributing to a state-level) law on conflict of interest, and referring to the RS as an obstacle to progress -- were rejected in an early phase of negotiation. Of the Bosniak proposals, the Council of Europe adopted only the proposal from Party for Democratic Action (SDA) MP Bakir Izetbegovic that calls upon the Bosnian officials to set money aside in the state, entity, and cantonal budgets for the return of internally displaced persons.

Silajdzic Engages in Another Diatribe

16. (SBU) As acting chairman of the Tri-Presidency, Silajdzic addressed the PACE at the meeting that produced the final resolution, and as usual, he had some unfriendly words for the Serbs. Echoing the statements he made at the UNGA (reftel), Silajdzic declared that if the UN does not help Bosnia eliminate entity voting, the UN will be responsible for the "genocide" that led to the creation of the RS. He accused the RS of engaging in "systematic, continuous, deliberate discrimination to prevent the return of minorities." He added that entity voting allowed the Serbs to block amendments to the citizenship law, thereby ensuring that "more than half a million Bosniak refugees, who left the country not out of their free will but to save their lives, will lose Bosnian citizenship."

Serbs Predictably Angered

17. (SBU) Silajdzic's speech and the resolution itself have angered Serbs. The RSNA -- over the objection of the Bosniak

delegates -- scheduled a special session for October 13 to craft a response to Silajdzic's speeches to the UNGA and the Council of Europe Parliamentary Assembly, as well as to the PACE resolution itself. The RSNA plans to personally invite to the session the leaders of the six ruling parties in the state government, as well as the Tri-Presidency -- including Silajdzic.

18. (SBU) RS President Rajko Kuzmanovic stated that the resolution -- although non-binding -- was unacceptable to the RS. He added that the European parliamentarians clearly were not familiar enough with the situation in Bosnia to assess the consequences of eliminating entity voting and the "vital national interests" clause. RS PM Milorad Dodik said that "changes to entity voting could lead to the abandoning of institutional mechanisms on which the Dayton Accords were founded and which helped establish an ethnic balance, and that is something the Serbs will never accept." Serb Tri-Presidency member Nebojsa Radmanovic called Silajdzic's speech "political autism of irresponsible elite, who are unable to see real changes in society."

Comment

19. (C) We expect Silajdzic will trumpet this report from the rooftops -- particularly the language on the need for a revamping of entity voting to ensure a "civic state" -- in negotiations on constitutional reform, which many political leaders expect will begin sometime this fall. He will contend that Europe has "endorsed" his constitutional reform proposals and that anything less would be inconsistent with "European values" -- the same tact he took in 2006 with an earlier PACE resolution that was more equivocal on issues such as entity voting. As in the past, Silajdzic is also likely to suggest that any Bosniak that is prepared to accept something less than what is contained in the resolution is either implicitly endorsing "the RS as a genocidal creation" or sacrificing long-term Bosniak interests and their responsibility to protect them to a narrow political

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expediency.
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